

UNITED STATES SENATE

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COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

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SUBCOMMITTEE ON SURFACE TRANSPORTATION  
AND MERCHANT MARINE

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RAIL SAFETY -- FATIGUE

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The Association of American Railroads (AAR) appreciates this opportunity to testify on railroad industry programs addressing fatigue in the workplace. In its February 25th testimony before this Subcommittee addressing rail safety generally, AAR described some of the industry's efforts in this area. Today, AAR will discuss in greater detail what is being done to counteract fatigue among railroad employees.

Rail labor and management are working closely together to address fatigue in the workplace. In 1992, AAR, the Brotherhood of Locomotive Engineers (BLE), and the United Transportation Union (UTU) formed the "Work/Rest Review Task Force." Through the Task Force, rail labor and management share information on fatigue-related matters and develop new approaches to

work/rest issues.

The Task Force has undertaken several steps to address fatigue. AAR's February testimony noted that the Task Force conducted a detailed examination of crew schedule data to better understand the complex issue of fatigue. More recently, the Task Force formed a scientific advisory panel composed of independent leaders in the field of fatigue research. The panel members are Colonel Gregory Belenky of the Walter Reed Army Institute of Research, Dr. Carlos Comperatore of the U.S. Coast Guard, and Dr. Ronald Heselgrave of Wellesley Hospital in Toronto. The panel will provide the Task Force with up-to-date information on scientific research and help labor and management apply the knowledge gained to railroad operations.

Another Task Force initiative is the development of a standard industry policy for addressing health conditions, such as sleep disorders, that could impair alertness. Industry physicians are currently working on this project. While for many years railroads have had health-awareness programs which educate employees about fatigue, this standard policy will facilitate a consistent, comprehensive approach to providing employees with information on health conditions that may impair alertness and resources available for evaluating and treating such conditions.

AAR's previous testimony discussed the Task Force report, "Current Status of Fatigue Countermeasures in the Railroad Industry." The second edition of this eighty-page report, which describes industry pilot projects and other initiatives addressing fatigue, has just been released and is appended to my testimony. Industry initiatives addressing fatigue, tailored to

the needs of individual railroads, include:

- taking advantage of technological developments to improve train scheduling and work time predictability, thereby enhancing the ability of employees to plan their rest periods;

- providing more crews with assigned rest days;

- using state-of-the-art call-in systems which enable train crews to better predict when they will be called for duty;

- pilot programs permitting napping on stationary trains and at terminals before and after operating trains;

- expanded periods of undisturbed rest between assignments;

- improving lodging facilities; and

- educational programs about fatigue for employees and their families.

Noteworthy is that all the major railroads have pilot programs, tailored to their operational circumstances, that provide more rest than mandated by the Hours of Service laws. Many railroads are providing employees with at least ten-hours of rest following tours of duty, regardless of the length of time on-duty during the previous tour.

It should be kept in mind that while the railroads recognize they must ensure that employees have sufficient opportunity to rest, it is the employees themselves who have the responsibility to use for rest a sufficient amount of the time made available to them. No legislative, regulatory, or corporate measure can make employees devote their time to any particular activity.

Unions representing both operating and

non-operating employees have joined with the largest railroads and FRA in another effort to address fatigue, the "North American Rail Alertness Partnership" (NARAP). NARAP has identified eight elements that should be taken into account in designing fatigue programs, including education and training, employee and train scheduling, and a commitment to evaluate the efficacy of fatigue countermeasure programs adopted by the industry. All the railroads participating in NARAP are currently developing fatigue countermeasures programs containing these and other elements.

FRA's stated objective in proposing NARAP was to work with rail labor and management on voluntary solutions to railroad work/rest problems. The railroads strongly support the effort to address fatigue without imposing regulatory mandates. Workplace fatigue issues are ill-suited to resolution by regulation. A single set of mandates cannot take into account the varying circumstances found on the railroads. For example, operating characteristics vary widely between freight, intercity passenger, and commuter railroads, and within railroads in each of these categories. Furthermore, labor agreements must be taken into account in addressing fatigue. Labor agreement provisions governing seniority, income, methods of calling crews to duty, and other matters differ in each locale. Illustrative is that labor agreements on freight railroads often contain expected levels of earnings for operating crews, which cannot be reached unless employees work a certain number of miles. The number of hours an employee must work to attain those miles will vary considerably. Relevant factors include the types of traffic handled, terrain,

traffic levels, and length of crew districts.

Work/rest regulations would stifle needed innovation. The inflexibility inherent in regulatory schemes would be counterproductive. Rail labor and management are constantly gaining knowledge in the area of fatigue, especially practical experience from projects they have begun. Flexibility is needed to facilitate new projects and changes in existing ones. Rail customers, too, have an interest in ensuring that railroads are not subject to nonproductive work/rest rules that impair the railroads' ability to provide efficient service.

Another difficulty with addressing the issue of fatigue through regulation is that work/rest issues encompass both safety and quality-of-life considerations. Often, it is difficult to separate the two. Quality-of-life matters are collectively bargained and are appropriately left to labor and management to resolve.

Thus, the railroads agree with FRA's stated objective of addressing work/rest issues in a non-regulatory context. At the same time, the railroads oppose FRA's legislative proposals in this area, which are inconsistent with the agency's assertion that fatigue should be addressed through cooperative programs.

FRA's legislative proposal would require a railroad to obtain FRA approval of a fatigue management plan setting forth every detail of how the railroad is addressing fatigue in the workplace. Any change in how a railroad and its employees approach work/rest issues would have to be approved by FRA.

FRA's proposal for agency-approved fatigue

management plans is by definition a slow, counterproductive regulatory approach. FRA's proposal would stifle innovation by driving railroads to use an agency-preferred solution. Even if FRA permitted some flexibility, additional regulation could serve to discourage railroads from experimenting with different approaches to fatigue by making railroads fearful that experimental programs would be latched onto by FRA and prematurely mandated. Given all the progress being made today by rail labor and management, the railroads do not see the benefit of the regulatory approach proposed by FRA.

The railroads also oppose FRA's proposed changes to the Hours of Service laws. The Hours of Service restrictions apply to three different types of railroad employees: dispatching service, signal, and train employees. FRA proposes to change the statutory definition for these employee classifications. Were Congress to do so, the changes could be interpreted as bringing additional employees within the ambit of the restrictive Hours of Service laws, even though FRA has not offered any justification for doing so.

FRA also proposes to extend the Hours of Service restrictions to independent contractors. The railroads oppose this proposal because it could result in railroad liability for Hours of Service violations by independent contractors over whom the railroads do not exercise control. Another problem with this proposal is that it would encompass independent contractors installing or repairing signal equipment at railroad facilities out of service while undergoing major reconstruction. There is no need to apply Hours of Service restrictions to work on facilities that are

not in use.

Finally, FRA's Hours of Service proposal would no longer permit railroads to count one hour of a signal employee's time spent returning from duty as time off duty. FRA has not offered any evidence that safety would benefit from a change in the longstanding policy of including this one hour as time off duty.

While fatigue in the workplace has been studied for many years, there still is much to be learned about how to apply the acquired scientific knowledge to operational settings. Great strides have been made by the cooperative efforts of rail labor and management to explore a variety of fatigue countermeasures. The railroads look forward to continuing these efforts. AAR welcomes Congress' interest in this area and hopes that this Subcommittee will endorse the cooperative approach adopted by rail labor and management.

Thank you.